

FILED

NOV 18 2005

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN MANUEL BARRAZA-FELIX, aka
Armando Salazar-Quintero,

Defendant - Appellant.

No. 03-10250

D.C. No. CR-01-01638-RCC

MEMORANDUM*

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN MANUEL BARRAZA-FELIX, aka
Armando Salazar-Quintero,

Defendant - Appellant.

No. 03-10251

D.C. No. CR-97-00486-RCC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Raner C. Collins, District Judge, Presiding

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

Submitted November 8, 2005**

Before: WALLACE, LEAVY, and BERZON, Circuit Judges.

In these consolidated appeals, Juan Manuel Barraza-Felix appeals his jury-trial conviction and 77-month sentence for illegal re-entry after deportation, in violation of 8 U.S.C. § 1326(a), as well as the revocation of his supervised release and the 12-month sentence imposed upon revocation.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), counsel for Barraza-Felix has filed a brief stating there are no grounds for relief, and a motion to withdraw as counsel of record. Barraza-Felix has not filed a pro se supplemental brief.

We have conducted an independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 83 (1988).

In appeal No. 03-10250, we affirm the conviction. Because Barraza-Felix was sentenced under the then-mandatory Sentencing Guidelines, and we cannot reliably determine from the record whether the sentence imposed would have been materially different had the district court known that the Guidelines were advisory, we remand the sentence for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc). See *United States v. Moreno-Hernandez*, 419

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

F.3d 906, 916 (9th Cir. 2005). If appellant does not want to pursue resentencing, appellant should promptly notify the district court judge on remand. *See Ameline*, 409 F.3d at 1084.

In appeal No. 03-10251, our independent review of the record discloses no grounds for relief.

Counsel's motion to withdraw as counsel on appeal is denied.

In appeal No. 03-10250, the conviction is **AFFIRMED** and the sentence is **REMANDED**.

Appeal No. 03-10251 is **AFFIRMED**.